

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF  
ALABAMA SOUTHERN DIVISION**

Reponsa Bias, )  
                  )  
Plaintiff.      ) Civil Action No.:  
                  )  
vs.              ) JURY TRIAL DEMANDED  
                  )  
Sam's East, Inc., d/b/a Sam's Club    )  
                  )  
                  )  
Defendant.      )

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**COMPLAINT**

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**COMES NOW** the Plaintiff, Reponsa Bias, (“Plaintiff”) by and through her undersigned counsel, and hereby files this Complaint against Sam’s East, Inc., d/b/a Sam’s Club (“Defendant”) and seeks redress for discrimination suffered in Plaintiff’s capacity as an employee of the Defendant. Plaintiff has been discriminated against by the Defendant on account of Plaintiff’s disability in violation of the Americans with Disabilities Act, **42 U.S.C. §§ 12101 *et seq.***, and any other cause(s) of action that can be inferred from the facts set forth herein and states the follows:

**JURISDICTION AND VENUE**

1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C . § 1331 because this action arises under the laws of the United States, 42 U.S.C. § 12117(a) because the action arises under the ADA.
2. The unlawful employment acts alleged herein took place within the Southern Division of the Northern District of Alabama.
3. Venue is proper in this Court, The United States District Court for the Northern District of Alabama, pursuant to Title 28, U.S.C § 1391 and the Local Rules of the United States District Court for the Northern District of Alabama.

### **PARTIES**

4. Plaintiff Reponsa Bias is domiciled in the State of Alabama.
5. At all relevant times the Plaintiff was an “employee” of the Defendant.
6. The Defendant Sam’s East, Inc., d/b/a Sam’s Club is a foreign corporation doing business at 201 Lakeshore Pkwy, Birmingham, AL 35209.
7. At all relevant times, Defendant was an “employer.”

### **COMPLIANCE WITH THE JURISDICTIONAL REQUIREMENTS**

8. Plaintiff has complied with the jurisdictional requirements on to wit: that on or about May 31, 2019, Plaintiff caused a charge of discrimination in employment to be filed with the Equal Employment Opportunity Commission.

9. A Notification of a Right to Sue Letter in which the EEOC found reasonable cause of violation was received and this Complaint has been filed within ninety (90) days of receipt of said Notification of Right to Sue. A copy of the Notice is attached as Exhibit 1.

### **GENERAL FACTS**

10. Plaintiff began working for the Defendant as a member host in September of 2018.

11. Upon her hiring she informed the Defendant of her need for an accommodation for a qualifying disability.

12. This accommodation was originally granted upon her hiring.

13. On or about December 3, 2018 Plaintiff was constructively discharged as her mental health was being affected due to her accommodation being ignored.

### **COUNT I**

#### **Violation of The Americans With Disabilities Act**

14. Plaintiff repeats and realleges paragraphs 1-13 as if set forth in full herein.

15. Plaintiff is a qualified individual with a disability which affects major life activities.

16. Plaintiff was able to perform all the essential functions of her job with reasonable accommodations.

17. Prior to her hiring Plaintiff was diagnosed with sleep and mood disorders that required her to take medications affecting her major life activities.

18. Specifically, Plaintiff was required to take medication at certain times in the day.

19. This medication caused the Plaintiff to get drowsy and fall asleep shortly after consuming the medication.

20. Upon her hiring Plaintiff immediately requested an accommodation.

21. The accommodation included not being scheduled to be at work after 5:30 P.M on every day except Sunday due to a store policy in which the store closed at 6.

22. Plaintiff was originally granted the accommodation requested.

23. For about a month Defendant accommodated Plaintiff with no issues.

24. However, around October of 2018 Plaintiff's accommodation was not honored.

25. Plaintiff reminded Defendant of the accommodation.

26. Around late October of 2018 Plaintiff was informed for the first time she would need a note from a doctor for the accommodation.

27. Plaintiff provided the note from her doctor to Defendant and to the Scheduling Manager.

28. After presenting Defendant with the note her accommodation continued to be ignored.

29. Plaintiff was still being scheduled to work after 5:30 even after expressing her accommodation was being ignored.

30. On or about December 3, 2018 Plaintiff was constructively discharged as her mental health was being affected due to her accommodation being ignored.

31. Defendant has discriminated against Plaintiff because of her disability and/or her perception of her disability by terminating her employment in violation of The Americans with Disability Act.

32. Plaintiff has suffered and continues to suffer lost earnings, emotional distress, loss of self-esteem and other damages as a direct result of Defendant's unlawful discrimination.

WHEREFORE, Plaintiff prays that this Honorable Court will:

- a. Issue a declaratory judgment, declaring the defendants past practices herein to be unlawful.
- b. Order Defendant to institute and carry out policies, practices, and programs providing equal employment opportunities for Plaintiff and other employees and eradicate the effects of its past and present unlawful employment practices.

- c. Order the Defendant to make whole the Plaintiff by providing appropriate back pay with prejudgment interest, in amounts to be proved at trial, and other affirmative relief necessary to eradicate the effects of Defendants unlawful employment practices.
- d. Order Defendant to make whole Plaintiff by providing compensation for past and future pecuniary and non-pecuniary losses resulting from the unlawful employment practices described above, including, but not limited to emotional pain, suffering, anxiety, loss of enjoyment of life, humiliation, and inconvenience, in amounts to be determined at trial.
- e. Order Defendant to pay Plaintiff punitive damages for its malice or reckless indifference to Plaintiff's federally protected rights described above, in amounts to be determined at trial.
- f. Grant such further relief as the Court deems necessary and proper.

**DEMAND FOR JURY TRIAL**

The Plaintiff demands trial by jury.

Respectfully submitted,

/s/ Ray Foushee  
Raymond Foushee  
ASB-9344-X13G  
Attorney for Plaintiff

/s/ Jeremy Schatz  
D. Jeremy Schatz

ASB-2400-H34Y  
*Attorney for Plaintiff*

**OF COUNSEL:**

Virtus Law Group  
100 41<sup>st</sup> Street South, Suite A  
Birmingham, AL 35222  
[js@vlgal.com](mailto:js@vlgal.com)  
[rf@vlgal.com](mailto:rf@vlgal.com)

**CLERK: PLEASE SERVE VIA CERTIFIED MAIL:**

Sam's East, Inc.,  
C/O C T Corporation System  
2 North Jackson Street  
Suite 605  
Montgomery, AL 36104

# Exhibit 1

## U.S. EQUAL OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE  
(CONCILIATION FAILURE)To: Reponsa Bias  
1209 3nd St Sw  
Birmingham, AL 35221From: Birmingham District Office  
Ridge Park Place  
1130 22nd Street South  
Birmingham, AL 35205

On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
420-2019-01873	MICHELE R. HARRIS, Investigator	(205) 651-7044

## TO THE PERSON AGGRIEVED:

This notice concludes the EEOC's processing of the above-numbered charge. The EEOC found reasonable cause to believe that violations of the statute(s) occurred with respect to some or all of the matters alleged in the charge but could not obtain a settlement with the Respondent that would provide relief for you. In addition, the EEOC has decided that it will not bring suit against the Respondent at this time based on this charge and will close its file in this case. This does not mean that the EEOC is certifying that the Respondent is in compliance with the law, or that the EEOC will not sue the Respondent later or intervene later in your lawsuit if you decide to sue on your own behalf.

**- NOTICE OF SUIT RIGHTS -**  
(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age**

**Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

for James E. Love Sr

Digitally signed by James E. Love Sr  
On 2020-11-12 10:54:49-05'00  
Name: James E. Love Sr

NOV 12 2020

Enclosures(s)

**BRADLEY A. ANDERSON,**  
District Director

(Date Mailed)

CC: Elizabeth V. LaFollette  
Sam's Club  
2301 McGee Street, 8th Floor  
c/o Littler Mendelson, P.C. - GSC(LCS)  
Kansas City, MO 64108

Jeremy Schatz, Esq.  
THE PATTON FIRM  
3720 4th Avenue South  
Birmingham, AL 35222

## INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

*(This information relates to filing suit in Federal or State court under Federal law. If you also plan to sue claiming violations of State law, please be aware that time limits and other provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS** -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you receive this Notice. Therefore, you should keep a record of this date. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed within 90 days of the date this Notice was mailed to you (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

**PRIVATE SUIT RIGHTS** -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred more than 2 years (3 years) before you file suit may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit before 7/1/10 -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

**ATTORNEY REPRESENTATION** -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

**ATTORNEY REFERRAL AND EEOC ASSISTANCE** -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to insert or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide

EEOC Form 5 (11/09)

<p style="text-align: center;"><b>CHARGE OF DISCRIMINATION</b></p> <p>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</p>		<p style="text-align: center;">Charge Presented To: <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC      Agency(ies) Charge No(s): <b>420-2019-01873</b></p> <p style="text-align: right;">and EEOC</p>	
<p><i>State or local Agency, if any.</i></p>			
<p>Name (Indicate Mr., Ms., Mrs.) <b>Ms. Reponsa Bias</b></p>		<p>Home Phone (Incl. Area Code) <b>(470) 301-2234</b></p>	
<p>Street Address <b>1209 3rd St S W, Birmingham, AL 35221</b></p>		<p>City, State and ZIP Code</p>	
<p>Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)</p>			
<p>Name <b>SAM'S CLUB</b></p>		<p>No. Employees, Members <b>500 or More</b></p>	<p>Phone No. (Include Area Code) <b>(205) 941-3326</b></p>
<p>Street Address <b>201 Lakeshore Pkwy, Birmingham, AL</b></p>		<p>City, State and ZIP Code</p>	
<p>Name <span style="float: right;">RECEIVED</span></p>		<p>No. Employees, Members</p>	
<p>Street Address <span style="float: right;">MAY 31 2019</span></p>		<p>Phone No. (Include Area Code)</p>	
<p style="text-align: center;">U.S. EEOC DISCRIMINATION BASED ON (Check appropriate boxes) Birmingham District Office</p>		<p>DATE(S) DISCRIMINATION TOOK PLACE Earliest <b>09-01-2018</b> Latest <b>11-30-2018</b></p>	
<p><input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN  <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION  <input type="checkbox"/> OTHER (Specify) <span style="float: right;">CONTINUING ACTION</span></p>		<p><input type="checkbox"/></p>	
<p>THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):</p> <p>I am a qualified individual with a disability. I was hired with the above named employer in September of 2018. At the time that I was hired, I informed my employer of my disability and the accommodation that I would need in order to successfully perform my job. Initially, I was scheduled as I needed and according to my physician's request. In or about November of 2018, my employer began to schedule me outside of the times that my doctor recommended. When I brought it to their attention, I was asked to get a medical statement; which I did. My employer still refused the accommodation that I needed. I was forced to leave my job since my employer would not accommodate my disability.</p> <p>I believe that I was discriminated against, denied an accommodation and constructively discharged because of my disability in violation of the Americans with Disabilities Act.</p>			
<p>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p>		<p>NOTARY – When necessary for State and Local Agency Requirements</p>	
<p>I declare under penalty of perjury that the above is true and correct.</p> <p><i>5-31-19</i> <i>QB</i></p>		<p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</p> <p>SIGNATURE OF COMPLAINANT</p>	
<p>Date</p>		<p>Charging Party Signature</p>	
<p>SUBSCRIBED AND SWEORN TO BEFORE ME THIS DATE (month, day, year)</p>			